



2026:DHC:4450



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 15440/2024 and CM APPL. 64789/2024, CM APPL. 64790/2024, CM APPL. 64791/2024, CM APPL. 64792/2024

Date of Decision: **12.05.2026**

IN THE MATTER OF:

PARMAL & ANR.

.....Petitioner

Through: Mr. Naginder Benipal, Mr. Ankit Siwach, Mr. Udit Vaghela, Mr. Jaskaran Singh, Mr. Saarthak Sethi, Mr. Arjun Baliyan, Mr. Satyapal, Advocates.

versus

THE STATE & ORS.

.....Respondent

Through: Ms Avni Singh (Panel Counsel-GNCTD) with Mr Vaibhav Sharma, Advocates.
Mr. Badar Mahmood (SPC for UOI), Mr. Ammar Ahmad, Advocate for R-3.
Mr Vina Rathi, DHCLSC and Ms Hetu, Advocate for R-4 to 6.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G E M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

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1. The petition is for the following reliefs:

“(i) issue a writ of Mandamus or any other appropriate writ to modify para 10 of order dated 07/06/2024 and the respondent No.4 to 7 directed to be unconditional eviction from the property No. 10 measuring 100 sq.yds., Chhuraiya Mohalla, Madanpur Khadar, Sarita Vihar, South Delhi, New Delhi-110076 and also modify para 10 of order dated 07/06/2024 about the alternative accommodation and maintenance burden on the petitioners and further directed to be respondent no. 7 to bear all the duties, responsibility and liabilities towards respondent 4 to 6.

(ii) Issue a writ of Mandamus or any other appropriate writ to modify the para 10 of the order dated 07/06/2024 and direct to respondent no. 4 and 7 to handover peaceful unconditional possession to petitioners of the suit property i.e. property No. 10 measuring 100 sq.yds., Chhuraiya Mohalla, Madanpur Khadar, Sarita Vihar, South Delhi, New Delhi -110076

(iii) Issue a writ of Mandamus or any other appropriate writ to the respondents 1 to 3 to ensure the safety and security of the petitioners from the respondents 4 and 7

(iv) Issue a writ of Mandamus or any other appropriate writ to the respondent No.4 as per order dated 07/06/2024 in para 11 to give half of the rent of the property w.e.f. 10.06.2023 till the date of order i.e. 07/06/2024 and further directions to the respondent no. 4 to handover the rent of the property since 07.06.2024 till today and further directions to the respondent no. 4 and 7 that they may not be any kind of hindrance to collect the rent from the tenants by the petitioners.

(v) Issue a writ of mandamus or any other appropriate writ against the respondent no.4 to 7 not to create any interference and nuisance in the peaceful living of the petitioners in suit premises property No. 10 measuring 100 sq.yds., Chhuraiya Mohalla, Madanpur Khadar, Sarita Vihar, South Delhi, New Delhi-110076.”

2. The petitioners are senior citizens aged about 76 and 73 years respectively. The petitioner no. 1 is the absolute owner of the property in question, i.e., House bearing no. 10, Churiya Mohalla, Madanpur Khadar, New Delhi-110076. The respondent no. 4 is their daughter-in-law (wife of respondent no. 7, the petitioner's son), and respondents no. 5 and 6 are respondent no. 4's minor children.

3. The petitioners, alleging ill-treatment and harassment, filed an

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application before the District Magistrate (South-East) under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter '**Senior Citizens Act**'). The District Magistrate *vide* order dated 11.05.2023, directed the eviction of the respondent no. 4 and respondent no. 7 from the property.

4. Aggrieved by the order of the District Magistrate, respondent no. 4 preferred an appeal before the Divisional Commissioner/Appellate Authority. The Appellate Authority *vide* the impugned order dated 07.06.2024, while upholding the District Magistrate's findings of ill-treatment, modified the order and directed the petitioners to provide a permanent alternate accommodation to respondents no. 4 to 6, and further directed that the rent from the property be collected by the petitioners, who shall in turn pass on half of it to the respondent no. 4.

5. The petitioners, who are the in-laws, contend that as absolute owners of the property, they have a right to its peaceful enjoyment. They submit that while they are ready to respect the respondent no. 4's right to a shared household by providing a reasonable rental accommodation, the direction to provide a permanent alternate accommodation is onerous and without any legal sanction. They argued that the statutory schemes of the Senior Citizens Act and the Protection of Women from Domestic Violence Act, 2005 (hereinafter '**DV Act**') do not envision the grant of permanent accommodation. They submitted that the liability to maintain respondent no. 4 rests primarily upon her estranged husband (respondent no. 7).

6. Learned counsel for the respondents No. 4 to 6 submitted that the petitioners had given an undertaking before the Divisional Commissioner to provide alternate accommodation, and they cannot be permitted to resile

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from the same. It was further submitted that respondent no. 4 also has to look after two children, and one of them is a special child. They, therefore, cannot be deprived from their right of shared-household. It is also contended that respondent no. 4 does not have any additional source of income and is managing her livelihood from the rent which she is getting from the remaining portion of the property in question.

7. I have considered the submissions made by learned counsel for the parties and have perused the record.

8. The order dated 11.05.2023 passed by the District Magistrate records a positive finding that the petitioners have been subjected to physical and mental harassment and ill-treatment. Certain complaints were brought on record. It has also been noted that the petitioners have no source of income and they are dependent on the welfare pension of the State Government. It is also noted that they do not have any other means of livelihood. The directions issued in paragraph no. 9 of the impugned order reads as under:

“9. In view of the above observations, I, Isha Khosla, District Magistrate, District South East, through the powers conferred upon me vide ‘The Maintenance and Welfare of Parents and Senior Citizens Act, 2007’ and ‘The Delhi Maintenance of Parents And Senior Citizens Rules (Amended), Rules, 2016’, on considering the facts and appreciating the evidence brought on records, pass the following orders:

(i) That the Respondents Sh. Gajender and Smt. Simmi shall vacate the entire premises of the subject property bearing House No. 100, Churiya mohalla, Madanpur Khadar, New Delhi- 110076 and handover the vacant peaceful possession of the subject property to the Complainants Sh. Parmal and Smt. Dharam within 30 days of the receipt of this Order.

(ii) That the Deputy Commissioner of Police, South-East District is directed to ensure enforcement/compliance of the directions mentioned above, as per provisions under the Delhi Maintenance and Welfare of Parents and Senior Citizens (Amendment) Rules, 2016, 3(3)(ii) and also ensure that the life and property of the Complainants is secured and no harassment is caused to them by

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the Respondents.

(iii) Beat Staff be further deputed for regular visits to the Senior Citizens Sh. Parmal and Smt. Dharam in order to safeguard the life and property of the said Senior Citizens. Compliance report of eviction of the Respondent Sh. Gajender and Smt. Simmi be sent to this Court within 35 days as per the provisions under The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, referred above.”

9. On an appeal preferred by respondent nos. 4 to 6, the Divisional Commissioner did not find any perversity or illegality therein. He, however, modified the order passed by the District Magistrate and found respondent nos. 4 to 6 to be entitled to permanent accommodation, particularly, when one of the respondent no. 4's children is a special child. Findings rendered in paragraph no. 10 of the order passed by the Divisional Commissioner is extracted as under:

“10. From the facts of the case, it is clear neither appellant No.1 nor respondents no. 1 & 2 are having good relationship with respondent no. 3. Respondent no. 3 seems to be having adultery issues as alleged. The Senior Citizens are admittedly living in a non-habitable house and also they are neither able to live in the property in question nor able to earn any income from it. It is noted that the appellant infact failed to give half of the rent from the property in question to the Senior Citizens in terms of the interim order passed by this appellate authority vide order dated 10.06.2023. It is also the argument of the Senior Citizens that they were not allowed to enter into the property in question despite the interim order of this appellate authority. It is clear that the appellant no. 1/ daughter-in-law want to monopolize the property in question to herself and is taking revenge on respondent no. 1 & 2/ her in-laws for her discord with her husband i.e respondent no. 3. The Senior citizens have the right to live peacefully with dignity. Also, the daughter-in-law too have the right to have roof over her head. Both are vulnerable groups and thus the claims of both the sides have to be harmoniously construed. Both the appellant no.1 and her children on one side and respondent No.1 and 2 / senior citizens on the other need protection. It is specifically claimed by the appellant no. 1 that she has the responsibility of her two minor children i.e the appellant no. 2 & 3, out of which one is stated to be a special child. The rental income is her source of income. In view of the need to protect the interest of both i.e. senior citizens and their daughter-in-law and the fact that they cannot live together in the same premise due to serious

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allegations against each other, this authority is of the considered view that the Judgment of Vinay Verma of Hon'ble Delhi High Court is more appropriate in the present situation. Appellants should have permanent accommodation particularly when appellant no. 3 is a special child. The appellant submitted during the arguments that she is residing at the fourth floor which has 3 rooms, kitchen and bathroom. Therefore the respondents no. 1 & 2 should provide alternate reasonable accommodation of similar area of permanent nature in the same or nearby vicinity. The respondent no. 1 & 2 agreed to it. Accordingly, the respondents jointly or severally shall provide alternate accommodation of similar size to the appellants and the appellants shall stand evicted from the property in question within 15 days from the date the alternate accommodation is provided to them. Further, the rent of the entire property in question shall from the date of this order be received by the Senior Citizens who shall in turn pay/pass on half of such rent to the appellant no. 1 and her children. This payment by the senior citizens to the daughter-in-law/appellant No.1 will be an interim arrangement till it is replaced by final order of Mahila Court in the Domestic Violence case with respect to maintenance to the appellant No.1.”

10. The Supreme Court in the case of ***S. Vanitha v. The Deputy Commissioner, Bengaluru Urban District & Ors.***¹ after harmonising the provisions of the two statutes i.e., the Protection Of Women From Domestic Violence Act, 2005 (**‘DV Act’**) and Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (**‘Senior Citizens Act’**), in paragraph no. 38 has held as under:

“38. This Court is cognizant that the Senior Citizens Act, 2007 was promulgated with a view to provide a speedy and inexpensive remedy to senior citizens. Accordingly, Tribunals were constituted under Section 7. These Tribunals have the power to conduct summary procedures for inquiry, with all powers of the civil courts, under Section 8. The jurisdiction of the civil courts has been explicitly barred under Section 27 of the Senior Citizens Act, 2007. However, the overriding effect for remedies sought by the applicants under the Senior Citizens Act, 2007 under Section 3, cannot be interpreted to preclude all other competing remedies and protections that are sought to be conferred by the PWDV Act, 2005. The PWDV Act, 2005 is also in the nature of a special legislation, that is enacted with the purpose of correcting gender

¹ (2021) 15 SCC 730



discrimination that pans out in the form of social and economic inequities in a largely patriarchal society. In deference to the dominant purpose of both the legislations, it would be appropriate for a tribunal under the Senior Citizens Act, 2007 to grant such remedies of maintenance, as envisaged under Section 2(b) of the Senior Citizens Act, 2007 that do not result in obviating competing remedies under other special statutes, such as the PWDV Act, 2005. Section 26 [“26. Relief in other suits and legal proceedings.—(1) Any relief available under Sections 18, 19, 20, 21 and 22 may also be sought in any legal proceeding, before a civil court, family court or a criminal court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act.(2) Any relief referred to in sub-section (1) may be sought for in addition to and along with any other relief that the aggrieved person may seek in such suit or legal proceeding before a civil or criminal court.(3) In case any relief has been obtained by the aggrieved person in any proceedings other than a proceeding under this Act, she shall be bound to inform the Magistrate of the grant of such relief.”] of the PWDV Act empowers certain reliefs, including relief for a residence order, to be obtained from any civil court in any legal proceedings. Therefore, in the event that a composite dispute is alleged, such as in the present case where the suit premises are a site of contestation between two groups protected by the law, it would be appropriate for the Tribunal constituted under the Senior Citizens Act, 2007 to appropriately mould reliefs, after noticing the competing claims of the parties claiming under the PWDV Act, 2005 and the Senior Citizens Act, 2007. Section 3 of the Senior Citizens Act, 2007 cannot be deployed to override and nullify other protections in law, particularly that of a woman's right to a “shared household” under Section 17 of the PWDV Act, 2005. In the event that the “aggrieved woman” obtains a relief from a tribunal constituted under the Senior Citizens Act, 2007, she shall be duty-bound to inform the Magistrate under the PWDV Act, 2005, as per sub-section (3) of Section 26 of the PWDV Act, 2005. This course of action would ensure that the common intent of the Senior Citizens Act, 2007 and the PWDV Act, 2005, of ensuring speedy relief to its protected groups who are both vulnerable members of the society, is effectively realised. Rights in law can translate to rights in life, only if there is an equitable ease in obtaining their realisation.”

11. Further, in ***Vinay Varma v. Kanika Pasricha***,² this Court also laid down guidelines to harmonize the two Acts and observed as under:

“If the relationship is acrimonious, then the parents ought to be permitted to

² 2019 SCC OnLine Del 11473



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seek eviction of the son/daughter-in-law or daughter/son-in-law from their premises. In such circumstances, the obligation of the husband to maintain the wife would continue in terms of the principles under the DV Act.”

“If the relationship between the parents and the son are peaceful or if the parents are seen colluding with their son, then, an obligation to maintain and to provide for the shelter for the daughter-in-law would remain both upon the in-laws and the husband especially if they were living as part of a joint family. In such a situation, while parents would be entitled to seek eviction of the daughter-in-law from their property, an alternative reasonable accommodation would have to be provided to her.”

12. The Supreme Court in **Satish Chander Ahuja v. Sneha Ahuja**,³ while interpreting Section 2(s) and Section 17 of the DV Act, held that the right to reside in a shared household exists even against a relative of the husband, but it is not an absolute or perpetual right. The Court further clarified that the purpose of the DV Act is to provide protection and not to confer any right of property. It was held that the right of residence is a protective right, which can be satisfied by providing suitable alternate accommodation.

13. In the present case, the relationship is admittedly acrimonious, as observed by the Divisional Commissioner. While the petitioners are entitled to seek eviction, the obligation to maintain the respondent no. 4 and provide shelter primarily rests upon her husband, respondent no. 7.

14. Applying this principle to the facts of the present case, this Court finds that the atmosphere in the shared household has become and detrimental to the well-being of the senior citizens, making cohabitation impossible.

15. The contention of the respondents that the petitioners are bound by their undertaking before the Divisional Commissioner is noted. However, an

³ (2021) 1 SCC 414



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undertaking to provide alternate accommodation cannot be stretched to mean permanent accommodation when the statute does not provide for the same. The petitioners remain bound to provide suitable alternate accommodation, which this Court has secured through the directions herein below.

16. Keeping in mind the principles laid down by the Courts, and in order to strike a balance between the rights of the senior citizens as well as the daughter-in-law, the Court finds that there are no provisions under the DV Act or the Senior Citizens Act for the grant of permanent accommodation. What is recognised therein, is the right of shared-household. In order to ensure that respondent nos. 4 to 6 enjoy the right of shared-household, the appropriate directions can be issued. However, the petitioners are legally entitled to enjoy the property in question, and cannot be deprived of their vested rights.

17. Under the aforesaid circumstances, the petition stands disposed of with the following directions:

- (i) The petitioners are directed to make the payment of Rs. 25,000/- towards the shared-household. Additionally, the petitioners shall make the payment of further Rs. 5,000/- towards maintenance of the shared-household accommodation. Let the advance payment for four months be deposited by the petitioners in the following account of respondent no. 4 within a maximum period of 45 days from today.

“Account Holder Name: Simmi Bidhuri

Account no. 6620706631

Bank Name: Indian Bank

IFSC: IDIB000J033

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- (ii) The respondent nos. 4 to 6 shall vacate the property in question within a period of 45 days from the date of deposition of advance payment for four months.
- (iii) The petitioners, thereafter, shall continue to make the payment of Rs. 25,000/- + Rs. 5,000/- (total Rs. 30,000/-) on or before 10th of the each month.
- (iv) In case of failure to make the payment on behalf of the petitioners of Rs. 30,000/-, the respondent no.4 to 6 shall be entitled to seek for restoration of their possession in the property in question.
- (v) The petitioners are restrained from creating any third party right over the property in question except to lease it out on rent without the leave of the Court.
- (vi) All rights and contentions with respect to the property or entitlement over other assets etc. are left open.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

MAY 12, 2026
Aks/AA

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